

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON DIVISION

UNITED STATES OF AMERICA,

v.

**Criminal Action No. 3:02-cr-00231
Honorable Robert C. Chambers**

JOHN DAVID MOONEY,

Defendant.

NOTICE

COMES NOW the Defendant, by counsel, Nicholas S. Preservati and Joseph L. Jenkins, of Preservati Law Offices, PLLC, and hereby NOTIFIES the government that Mr. Mooney will be asserting the defense of justification at trial. This defense has been recognized by the United States Court of Appeals for the Fourth Circuit as a defense to prosecution under 18 U.S.C. § 922(g). *See, e.g., United States v. Mooney*, No. 06-7565 (LEXIS August 6, 2007) (explicitly recognizing justification as a defense to prosecution under 18 U.S.C. § 922(g)); *United States v. Perrin*, 45 F.3d 869, 873-75 (4th Cir. 1995); *United States v. Crittendon*, 883 F.2d 326, 329-30 (4th Cir. 1989).

Respectfully submitted,

John David Mooney,
By counsel,

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CERTIFICATE OF SERVICE

I certify that on the 16th day of October, 2007, I filed the foregoing **Notice** with the Court using CM/ECF which will send notification of such filing to the following CM/ECF participants:

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